

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

[Adopted: June XX, 2006 - Effective: August XX, 2006.]

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9 VAC 25-820-10. Definitions.

Except as defined below, the words and terms used in this chapter shall have the meanings defined in the Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31).

"Annual mass load of total nitrogen" (expressed in pounds per year) means the daily total nitrogen concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD), multiplied by 8.3438 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Annual mass load of total phosphorus" (expressed in pounds per year) means the daily total phosphorus concentration (expressed as mg/L to the nearest 0.01mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD) multiplied by 8.3438 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Association" means the Virginia Nutrient Credit Exchange Association authorized by § 62.1-44.19:17. of the Code of Virginia.

"Attenuation" means the rate at which nutrients are reduced through natural processes during transport in water.

"Biological nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of eight milligrams per liter and an annual average total phosphorus effluent concentration of one milligram per liter, or (ii) equivalent reductions in loads of total nitrogen and total phosphorus through the recycle or reuse of wastewater as determined by the Department.

"Board" means the Virginia State Water Control Board or State Water Control Board.

"Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source that is adjusted by the delivery factor for that point source.

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32 "Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point source that is adjusted by
33 the delivery factor for that point source.

34

35 "Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for
36 every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to
37 account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall
38 be calculated using the Chesapeake Bay Program watershed model.

39

40 "Department" means the Department of Environmental Quality.

41

42 "Equivalent load" means 2,300 pounds or more per year of total nitrogen or 300 pounds or more per year of total phosphorus for
43 new and expanded industrial facilities; 5,700 pounds or more per year of total nitrogen or 760 pounds or more per year of total
44 phosphorus discharged by an existing industrial facility directly into tidal waters, and 28,500 pounds or more per year of total
45 nitrogen or 3,800 pounds or more per year of total phosphorus discharged by an existing industrial facility directly to nontidal
46 waters.

47

48 "Existing facility" means a facility holding a current individual VPDES permit that has either commenced discharge from, or has
49 received a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial
50 facilities), the treatment works used to derive its waste load allocation on or before July 1, 2005, or has a wasteload allocation
51 listed in Subsection C of Sections 50, 60, 70, 110 and 120 of the Water Quality Management Planning Regulation (9 VAC 25-
52 720) as of January 11, 2006.

53

54 "Expansion" or "expands" means initiating construction at an existing facility after July 1, 2005 to increase treatment capacity,
55 except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent
56 DEQ approval for discharges from industrial facilities) was issued on or before July 1, 2005.

57

58 "Facility" means a point source discharging or proposing to discharge total nitrogen or total phosphorus to the Chesapeake Bay
59 or its tributaries. This term does not include confined animal feeding operations, discharges of storm water, return flows from
60 irrigated agriculture, or vessels.

61

62 "General permit" means this general permit authorized by § 62.1-44.19:14. of the Code of Virginia.

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64 "Industrial facility" means any facility (as defined above) other than sewage treatment works.

65

66 "New discharge" means any discharge from a facility that did not commence the discharge of pollutants prior to July 1, 2005,
67 except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent
68 DEQ approval for discharges from industrial facilities) was issued to the facility on or before July 1, 2005.

69

70 "Non-significant discharger " means (i) a sewage treatment works discharging to the Chesapeake Bay watershed downstream of
71 the fall line with a design capacity of less than 0.1 million gallons per day, or an equivalent load discharged from industrial
72 facilities, or; (ii) a sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line with a design
73 capacity of less than 0.5 million gallons per day, or an equivalent load discharged from industrial facilities.

74

75 "Offset" means to acquire an annual waste load allocation of total nitrogen or total phosphorus by a new or expanding facility to
76 ensure that there is no net increase of nutrients into the affected tributary of the Chesapeake Bay.

77

78 "Permitted facility" means a facility authorized by this general permit to discharge total nitrogen or total phosphorus. For the sole
79 purpose of generating point source nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the
80 Blue Plains wastewater treatment facility operated by the District of Columbia Water and Sewer Authority.

81

82 "Permitted design capacity" or "permitted capacity" means the annual mass load of total nitrogen or total phosphorus discharged
83 by a non-significant discharger, that does not have a wasteload allocation listed in Subsection C of Sections 50, 60, 70, 110 and
84 120 of the Water Quality Management Planning Regulation (9 VAC 25-720) as of January 11, 2006. This mass load is
85 calculated based on the design flow and installed nutrient removal technology (for sewage treatment works, or equivalent
86 discharge from industrial facilities) at a facility that has either commenced discharge, or has received a Certificate to Construct
87 (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) prior to July 1, 2005. This
88 mass load is used for (i) determining whether the expanding facility must offset additional mass loading of nitrogen and
89 phosphorus and (ii) determining whether the facility must acquire credits at the end of a calendar year.

90

91 "Permittee" means a person authorized by this general permit to discharge total nitrogen or total phosphorus.

92

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93 "Point source nitrogen credit" means the difference between (i) the waste load allocation for a permitted facility specified as an
94 annual mass load of total nitrogen, and (ii) the monitored annual mass load of total nitrogen discharged by that facility, where
95 clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds
96 per year of delivered total nitrogen load.

97
98 "Point source phosphorus credit" means the difference between (i) the waste load allocation for a permitted facility specified as
99 an annual mass load of total phosphorus, and (ii) the monitored annual mass load of total phosphorus discharged by that facility,
100 where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as
101 pounds per year of delivered total phosphorus load.

102
103 "Registration list" means a list maintained by the Department indicating all facilities that have registered for coverage under this
104 general permit, by tributary, including their waste load allocations, permitted design capacities and delivery factors as
105 appropriate.

106
107 "Significant discharger " means (i) a sewage treatment works discharging to the Chesapeake Bay watershed upstream of the
108 fall line with a design capacity of 0.5 million gallons per day or greater, or an equivalent load discharged from industrial facilities;
109 (ii) a sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line with a design capacity
110 of 0.1 million gallons per day or greater, or an equivalent load discharged from industrial facilities; (iii) a planned or newly
111 expanding sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line that is expected to
112 be in operation by December 31, 2010 with a permitted design of 0.5 million gallons per day or greater, or an equivalent load to
113 be discharged from industrial facilities; or (iv) a planned or newly expanding sewage treatment works discharging to the
114 Chesapeake Bay watershed downstream of the fall line that is expected to be in operation by December 31, 2010 with a design
115 capacity of 0.1 million gallons per day or greater, or an equivalent load to be discharged from industrial facilities.

116
117 "State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent
118 concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per
119 liter, or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as
120 determined by the Department.

121

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122 "Tributaries" means those river basins for which separate tributary strategies were prepared pursuant to § 2.2-218 and includes
123 the Potomac, Rappahannock, York, and James River Basins, and the Eastern Coastal Basin, which encompasses the creeks
124 and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

125
126 "Waste load allocation" means (i) the water quality-based annual mass load of total nitrogen or annual mass load of total
127 phosphorus allocated to individual facilities pursuant to Subsection C of Sections 50, 60, 70, 110 and 120 of the Water Quality
128 Management Planning Regulation (9 VAC 25-720) or its successor, (ii) the water quality-based annual mass load of total
129 nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 for new or expanded facilities, or (iii)
130 applicable total nitrogen or total phosphorus total maximum daily loads to restore or protect the water quality and beneficial uses
131 of the Chesapeake Bay or its tidal tributaries.

132
133 **9 VAC 25-820-20. Purpose, applicability, delegation of authority.**

134
135 A. This regulation fulfills the statutory requirement for the General VPDES Watershed Permit for Total Nitrogen and Total
136 Phosphorus discharges and nutrient trading in the Chesapeake watershed, issued by the Board pursuant to the Clean Water Act
137 and the State Water Control Law (§ 62.1-44.19:14 of the Code of Virginia).

138
139 B. This general permit regulation governs facilities holding individual VPDES permits that discharge or propose to discharge
140 total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries.

141
142 C. The Director may perform any act of the Board provided under this regulation, except as limited by § 62.1-44.14 of the Law.

143
144 **9 VAC 25-820-30. Relation to existing VPDES permits issued in accordance with 9 VAC 25-31.**

145
146 A. This general permit shall control in lieu of conflicting or duplicative mass loading effluent limitations, monitoring or reporting
147 requirements for total nitrogen and total phosphorus contained in individual VPDES permits for facilities covered by this general
148 permit, where these requirements are based upon standards, criteria, waste load allocations, policy, or guidance established to
149 restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

150
151 B. This general permit shall not control in lieu of more stringent water quality-based effluent limitations for total nitrogen or total
152 phosphorus in individual permits where those limitations are necessary to protect local water quality, or more stringent

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153 technology-based effluent concentration limitations in the individual permit for any facility that has installed technology for the
154 control of nitrogen and phosphorus whether by new construction, expansion, or upgrade.

155

156 C. The compliance schedule in this general permit shall control in lieu of conflicting or duplicative schedule requirements
157 contained in individual VPDES permits for facilities covered by this general permit, where those requirements address mass
158 loading of total nitrogen or total phosphorus and are based upon standards, criteria, waste load allocations, policy, or guidance
159 established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

160

161 **9 VAC 25-820-40. Compliance plans.**

162

163 A. Within 9 months of the effective date of this regulation, every owner or operator of a facility required to submit a registration
164 statement to the Department by January 1, 2007 shall either individually or through the Virginia Nutrient Credit Exchange
165 Association submit compliance plans to the Department for approval.

166

167 1. The compliance plans shall contain any capital projects and implementation schedules needed to achieve total nitrogen and
168 phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the
169 tributary as soon as possible. Permittees submitting individual plans are not required to account for other facilities' activities.

170

171 2. As part of the compliance plan development, permittees whose facilities would have complied with their individual waste
172 load allocations for calendar year 2005, had the allocations been effective in that year, shall either:

173

174 a. Demonstrate that the additional capital projects in subsection A.1. are necessary to ensure continued compliance with
175 these allocations through the applicable deadline for the tributary to which the facility discharges (part I.C. of the permit), or

176

177 b. Request that their individual waste load allocations become effective on January 1, 2007. Permittees selecting this
178 option shall be entitled to trade nutrient credits generated by their facilities and to acquire nutrient credits.

179

180 3. The compliance plans may rely on the exchange of point source credits in accordance with this general permit, but not the
181 acquisition of credits through payments into the Water Quality Improvement Fund, to achieve compliance with the individual
182 and combined waste load allocations in each tributary.

183

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184 B. Every owner or operator of a facility required to submit a registration statement shall either individually or through the Virginia
185 Nutrient Credit Exchange Association submit annual compliance plan updates to the Department for approval as required by
186 Part I.D of this general permit.

187

188 **9 VAC 25-820-50. Transfer of permit coverage.**

189

190 A. This general permit shall be transferred by the current permittee to a new owner or operator concurrently with the transfer of
191 the individual permit(s) in accordance with 9 VAC 25-31-380. If the current permittee holds an aggregated waste load allocation
192 for multiple facilities in accordance with Part I.B.2. of this general permit, the current permittee shall submit a revised registration
193 statement for any facilities retained and the new owner shall submit a registration statement for the facilities transferred.

194

195 B. All conditions of this general permit, including, but not limited to, the submittal of a registration statement, annual nutrient
196 allocation compliance and reporting requirements, shall apply to the new owner or operator immediately upon the transfer date.

197

198 **9 VAC 25-820-60. Termination of permit coverage.**

199

200 A. The owner or operator shall terminate coverage under this general permit concurrently with any request for termination of the
201 individual permit(s) in accordance with 9 VAC 25-31-370.

202

203 **9 VAC 25-820-70. General permit.**

204

205 Any owner whose registration statement is accepted by the Board will receive the following general permit and shall comply with
206 the requirements therein.

207

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General Permit No.: VAN000000

Effective Date: January 1, 2007

Expiration Date: December 31, 2011

GENERAL PERMIT FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE WATERSHED IN VIRGINIA

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of facilities holding a VPDES individual permit, with total nitrogen and/or total phosphorus discharges to the Chesapeake Bay or its tributaries, are authorized to discharge to surface waters and exchange credits for total nitrogen and/or total phosphorus.

The authorized discharge shall be in accordance with the registration statement filed with DEQ, this cover page, Part I-Special Conditions Applicable to All Facilities, Part II-Special Conditions Applicable to New and Expanded Facilities, and Part III-Conditions Applicable to All VPDES Permits, as set forth herein.

PART I

SPECIAL CONDITIONS APPLICABLE TO ALL FACILITIES.

A. Authorized activities.

- 1. Authorization to discharge for facilities required to register.
 - a. Every owner or operator of a facility required to submit a registration statement to the Department by January 1, 2007 and thereafter upon the reissuance of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the Department’s approval of the registration statement.

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239 b. Any owner or operator of a facility required to submit a registration statement with the Department at the time he makes
240 application with the Department for a new discharge or expansion that is subject to an offset or technology-based
241 requirement in Part II of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to
242 the requirements of this general permit upon the Department's approval of the registration statement.

243
244 c. Upon the Department's approval of the registration statement, a facility will be included in the registration list maintained
245 by the Department.

246
247 2. Authorization to discharge for facilities not required to register. Any facility authorized by a Virginia Pollutant Discharge
248 Elimination System permit and not required by this general permit to submit a registration statement shall be deemed to be
249 authorized to discharge total nitrogen and total phosphorus under this general permit at the time it is issued. Owners or
250 operators of facilities that are deemed to be permitted under this subsection shall have no obligation under this general permit
251 prior to submitting a registration statement and securing coverage under this general permit based upon such registration
252 statement.

253

254 **B. Waste load allocations.**

255

256 1. Waste load allocations allocated to permitted facilities pursuant to Subsection C of Sections 50, 60, 70, 110 and 120 of the
257 Water Quality Management Planning Regulation, 9 VAC 25-720 or applicable total maximum daily loads, or waste load
258 allocations acquired by new and expanding facilities to offset new or increased delivered total nitrogen and delivered total
259 phosphorus loads from a new discharge or expansion under Part II B of this general permit, and existing loads calculated from
260 the permitted design capacity of expanding facilities not previously covered by this general permit, shall be incorporated into
261 the registration list maintained by the Department. The waste load allocations contained in this list shall be enforceable as
262 annual load limits in this general permit. Credits shall not be generated by facilities whose mass loads are derived from
263 permitted design capacities.

264

265 2. An owner or operator of two or more facilities, covered by this general permit and located in the same tributary may apply
266 for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total
267 phosphorus reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations or
268 permitted design capacities established for such facilities individually. Credits shall not be generated by facilities whose mass
269 loads are derived from permitted design capacities.

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270

271 3. An owner who consolidates two or more facilities, located in the same tributary, into a single regional facility, may apply for
272 and receive an aggregated mass load limit for total nitrogen and an aggregated mass load limit for total phosphorus, subject
273 to the following conditions:

274

275 a. If all of the affected facilities have waste load allocations in Subsection C of Sections 50, 60, 70, 110 and 120 of the
276 Water Quality Management Planning Regulation (9 VAC 25-720) as of January 11, 2006, the aggregate mass load limit
277 shall be calculated by adding the waste load allocations of the affected facilities. The regional facility shall be eligible to
278 generate credits.

279

280 b. If any, but not all, of the affected facilities has a waste load allocation in Subsection C of Sections 50, 60, 70, 110 and
281 120 of the Water Quality Management Planning Regulation (9 VAC 25-720) as of January 11, 2006, the aggregate mass
282 load limit shall be calculated by adding:

283

284 (i) Waste load allocations of those facilities that have wasteload allocations in Subsection C of Sections 50, 60, 70, 110 and
285 120 of the Water Quality Management Planning Regulation (9 VAC 25-720) as of January 11, 2006.

286

287 (ii) Permitted design capacities assigned to affected industrial facilities, and

288

289 (iii) Loads from affected sewage treatment works that do not have a waste load allocation in Subsection C of Sections 50,
290 60, 70, 110 and 120 of the Water Quality Management Planning Regulation (9 VAC 25-720) as of January 11, 2006,
291 calculated by the following formulae:

292

293 Nitrogen Load = flow (in gallons per day) x 8.0 mg/l x 8.3438 x 365 days/year

294 Phosphorus Load = flow (in gallons per day) x 1.0 mg/l x 8.3438 x 365 days/year

295

296 Flows used in the preceding formulae shall be the design flow of the treatment works from which the affected facility
297 currently discharges.

298

299 The regional facility shall be eligible to generate credits.

300

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301 c. If none of the affected facilities have a waste load allocation in Subsection C of Sections 50, 60, 70, 110 and 120 of the
302 Water Quality Management Planning Regulation (9 VAC 25-720), the aggregate mass load limit shall be calculated by
303 adding the respective permitted design capacities for the affected facilities. The regional facility shall not be eligible to
304 generate credits.

305

306 4. Unless otherwise noted, the nitrogen and phosphorus waste load allocations assigned to permitted facilities are considered
307 total loads including nutrients present in the intake water from the river, as applicable. On a case-by-case basis, an industrial
308 discharger may demonstrate to the satisfaction of the board that a portion of the nutrient load originates in its intake water. In
309 these cases, the board may limit the permitted discharge to the net nutrient load portion of the assigned waste load allocation.

310

311 5. Bioavailability. Unless otherwise noted, the entire nitrogen and phosphorus waste load allocations assigned to permitted
312 facilities are considered to be bioavailable to organisms in the receiving stream. On a case-by-case basis, a discharger may
313 demonstrate to the satisfaction of the board that a portion of the nutrient load is not bioavailable. In these cases, the board
314 may limit the permitted discharge to the bioavailable portion of the assigned waste load allocation.

315

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316 **C. Schedule of compliance.**

317

318 1. The following schedule of compliance pertaining to the load allocations for total nitrogen and total phosphorus applies to
 319 the facilities in each tributary, as listed. Compliance shall be achieved as soon as possible, but no later than the following
 320 dates, corresponding to the respective tributaries, for each parameter:

321

Tributary	Parameter	Final Effluent Limits Effective Date
James River	Nitrogen	January 1, 2011
	Phosphorus	January 1, 2011
Shenandoah and Potomac Rivers	Nitrogen	January 1, 2011
	Phosphorus	January 1, 2011
Rappahannock River	Nitrogen	January 1, 2011
	Phosphorus	January 1, 2011
York River	Nitrogen	January 1, 2011
	Phosphorus	January 1, 2011
Eastern Shore	Nitrogen	January 1, 2011
	Phosphorus	January 1, 2011

333

334 2. The registration list shall contain individual dates for compliance (as defined in Part I.J.1.a-b of this general permit) for
 335 dischargers, as follows:

336

337 a. Facilities that were required to submit a registration statement with the Department by January 1, 2007 will have
 338 individual dates for compliance based on their respective compliance plans, that may be earlier than the basin schedule
 339 listed in C.1..

340

341 b. New and expanded facilities will have individual dates for compliance corresponding to the date that coverage under this
 342 general permit was extended to the facility.

343

344 **D. Annual update of compliance plan.**

345

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346 Every owner or operator of a facility required to submit a registration statement shall either individually or through the Virginia
 347 Nutrient Credit Exchange Association submit updated compliance plans to the Department no later than February 1 of each
 348 year. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve
 349 total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the
 350 permittees in the tributary. Compliance plans for facilities that were required to submit a registration statement with the
 351 Department by January 1, 2007 may rely on the acquisition of point source credits in accordance with Part I.J of this general
 352 permit, but not the acquisition of credits through payments into the Water Quality Improvement Fund, to achieve compliance with
 353 the individual and combined waste load allocations in each tributary. Compliance plans for expansions or new discharges for
 354 facilities that are required to submit a registration statement with the Department may rely on the acquisition of allocation in
 355 accordance with Part II B of this general permit to achieve compliance with the individual and combined waste load allocations in
 356 each tributary. Any change to the deadlines contained in the schedule of compliance will require modification of this general
 357 permit.

358

359 **E. Monitoring requirements.**

360

361 1. Discharges shall be monitored by the permittee, during weekdays, as specified below:

362

<u>STP design flow</u>	<u>>20.0 MGD</u>	<u>1.0- 19.999 MGD</u>	<u>0.040-0.999 MGD</u>
<u>TN load for industrial facilities</u>		<u>>100000 lb/yr</u>	<u>487-99999 lb/yr</u>
<u>TP load for industrial facilities</u>		<u>>10000 lb/yr</u>	<u>37-9999 lb/yr</u>
<u>Parameter</u>	<u>Sample Type and Collection Frequency</u>		
<u>Flow</u>	<u>Totalizing, Indicating and Recording</u>		
<u>Nitrogen Compounds (Total Nitrogen = TKN +</u>	<u>24 HC</u>	<u>24 HC</u>	<u>8 HC</u>
<u>NO₂⁻ (as N) + NO₃⁻ (as N))</u>	<u>3 Days/Week</u>	<u>1/Week</u>	<u>2/Month, > 7 days apart</u>
<u>Phosphorus Compounds</u>	<u>24 HC</u>	<u>24 HC</u>	<u>8 HC</u>
<u>(Total Phosphorus and Orthophosphate)</u>	<u>3 Days/Week</u>	<u>1/Week</u>	<u>2/Month, > 7 days apart</u>

363

364 2. Monitoring for compliance with effluent limitations shall be performed at a location identical to that used to determine
 365 compliance with effluent limitations established in the individual VPDES permit.

366

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

367 3. Monitoring or sampling shall be conducted according to analytical laboratory methods approved under 40 CFR Part 136,
 368 unless other test or sample collection procedures have been requested by the permittee and approved by the Department in
 369 writing.

370
 371 4. Data shall be reported on a form provided by the Department, by the same date each month as is required by the facility's
 372 individual permit. The total monthly load shall be calculated in accordance with the following formula:

373

374 $ML = ML_{avg} * d$

375

376 where:

377 ML = total monthly load (lb/mo)

378 ML_{avg} = monthly average load as reported on DMR (lb/d)

379 d = number of discharge days in the calendar month

380

381 The total year-to-date mass load shall be calculated in accordance with the following formula:

382

383 $AL-YTD = \sum_{(Jan-current\ month)} ML$

384

385 where:

386 AL-YTD = calendar year-to-date annual load (lb/yr)

387 ML = total monthly load (lb/mo) as reported on DMR

388

389 **F. Annual reporting.**

390

391 1. Annually, on or before February 1, the permittee shall either individually or through the Virginia Nutrient Credit Exchange
 392 Association file a report with the Department, using a reporting form supplied by the Department. The report shall identify:

393

394 a. The annual mass load of total nitrogen and the annual mass load of total phosphorus discharged by each of its permitted
 395 facilities during the previous calendar year.

396

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

397 b. The delivered total nitrogen load and delivered total phosphorus load discharged by each of its permitted facilities during
398 the previous year, and

399
400 c. The number of total nitrogen and total phosphorus credits for the previous calendar year to be acquired or eligible for
401 exchange by the permittee.

402
403 The total annual mass load shall be calculated in accordance with the following formula:

404
405
$$AL = \sum_{(Jan-Dec)} ML$$

406
407 where:

408 AL = calendar year annual load (lb/yr)

409 ML = total monthly load (lb/mo) as reported on DMR

410
411 **G. Requirement to register; exclusions.**

412
413 1. The following owners or operators are required to register for coverage under this general permit:

414
415 a. Every owner or operator of an existing facility authorized by a Virginia Pollutant Discharge Elimination System permit to
416 discharge 100,000 gallons or more per day from a sewage treatment work, or an equivalent load from an industrial facility,
417 directly into tidal waters, or 500,000 gallons or more per day from a sewage treatment work, or an equivalent load from an
418 industrial facility, directly into nontidal waters, shall submit a registration statement to the Department by January 1, 2007
419 and thereafter upon the reissuance of this general permit in accordance with Part III.B. The conditions of this general
420 permit will apply to such owner and operator upon approval of a registration statement.

421
422 b. Any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge
423 40,000 gallons or more per day from a sewage treatment work, or an equivalent load from an industrial facility, directly into
424 tidal or nontidal waters shall submit a registration statement with the Department at the time he makes application for an
425 individual permit with the Department for a new discharge or expansion that is subject to an offset or technology-based
426 requirement in Part II of this general permit, and thereafter upon the reissuance of this general permit in accordance with

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

427 Part III.B. The conditions of this general permit will apply to such owner or operator beginning on the start of the calendar
428 year immediately following submittal of a registration statement and issuance or modification of the individual permit.

429

430 2. All other categories of discharges are excluded from registration under this general permit.

431

432 **H. Registration Statement.**

433

434 1. The registration statement shall contain the following information:

435

436 a. Name, mailing address and telephone number, e-mail address and fax number of the owner (and facility operator, if
437 different from the owner) applying for permit coverage;

438

439 b. Name (or other identifier), address, city or county, contact name, phone number, e-mail address and fax number for the
440 facility for which the registration statement is submitted;

441

442 c. VPDES permit numbers for all permits assigned to the facility;

443

444 d. If applying for an aggregated waste load allocation in accordance with Part I.B.2. of this permit, list all affected facilities
445 and the VPDES permit numbers assigned to these facilities;

446

447 e. For new and expanded facilities, a plan to offset new or increased delivered total nitrogen and delivered total phosphorus
448 loads, including the amount of waste load allocation acquired; and

449

450 f. For existing facilities, the amount of a facility's waste load allocation transferred to or from another facility to offset new or
451 increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

452

453 2. The registration statement shall be submitted to the DEQ Central Office, Office of Water Permit Programs.

454

455 3. An amended registration statement shall be submitted upon the acquisition or transfer of a facility's waste load allocation to
456 offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

457

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

458 **I. Public notice for registration statements proposing modifications or incorporations of new waste load allocations or**
459 **delivery factors.**

460

461 1. All public notices issued pursuant to a proposed modification or incorporation of a (i) new waste load allocation to offset
462 new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion, or (ii)
463 delivery factor, shall be published once a week for two consecutive weeks in a major local newspaper of general circulation
464 servicing the locality where the facility is located informing the public that the facility intends to apply for coverage under this
465 general permit. At a minimum, the notice shall include:

466

467 a. A statement of the owner or operator's intent to register for coverage under this general permit;

468

469 b. A brief description of the facility and its location;

470

471 c. The amount of waste load allocation that will be acquired or transferred if applicable;

472

473 d. The delivery factor for a new discharge or expansion;

474

475 e. A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility
476 and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate
477 communication and to establish a dialogue between the owner or operator and persons who may be affected by the facility;

478

479 f. An announcement of a 30-day comment period, in accordance with Subsection C of Sections 50, 60, 70, 110 and 120 of
480 this section, and the name, telephone number, and address of the owner's or operator's representative who can be
481 contacted by the interested persons to answer questions;

482

483 g. The name, telephone number, and address of the DEQ representative who can be contacted by the interested persons
484 to answer questions, or where comments shall be sent, and

485

486 h. The location where copies of the documentation to be submitted to the department in support of this general permit
487 notification and any supporting documents can be viewed and copied.

488

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

489 2. The owner or operator shall place a copy of the documentation and support documents in a location accessible to the
490 public in the vicinity of the proposed facility.

491

492 3. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The
493 comment period will begin on the date the notice is published in the local newspaper.

494

495 **J. Compliance with waste load allocations.**

496

497 1. Methods of Compliance. The permitted facility shall comply with its waste load allocation contained in the registration list
498 maintained by the Department. The permitted facility shall be in compliance with its waste load allocation if:

499

500 a. the annual mass load is less than, or equal to, the applicable waste load allocation assigned to the facility in this general
501 permit (or permitted design capacity for expanded facilities without allocations);

502

503 b. the permitted facility acquires sufficient point source nitrogen or phosphorus credits in accordance with paragraph 2. of
504 this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not
505 alter or otherwise affect the individual waste load allocations for each permitted facility, or

506

507 c. in the event it is unable to meet the individual waste load allocation pursuant to a. or b. (above), the permitted facility
508 acquires sufficient nitrogen or phosphorus credits through payments made into the Water Quality Improvement Fund
509 pursuant to paragraph 3. of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits
510 pursuant to this section shall not alter or otherwise affect the individual waste load allocations for each permitted facility.

511

512 2. Credit acquisition from permitted facilities. A permittee may acquire point source nitrogen credits or point source
513 phosphorus credits from one or more permitted facilities with waste load allocations, including the Blue Plains wastewater
514 treatment facility operated by the District of Columbia Water and Sewer Authority, only if:

515

516 a. the credits are generated and applied to a compliance obligation in the same calendar year,

517

518 b. the credits are generated by one or more permitted facilities in the same tributary,

519

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

520 c. such acquisition does not result in a localized water quality exceedance as determined by the board;

521
522 d. the credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied,

523
524 e. the credits are generated by a facility that has been constructed, and has discharged from treatment works whose
525 design flow or equivalent industrial activity is the basis for the facility's waste load allocations (until a facility is constructed
526 and has commenced operation, such credits are held, and may be sold, by the Water Quality Improvement Fund), and

527
528 f. no later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on a
529 credit exchange notification form supplied by the Department that he has acquired sufficient credits to satisfy his
530 compliance obligations. The permittee shall comply with the terms and conditions contained in the credit exchange
531 notification form submitted to the Department.

532
533 3. Credit acquisitions from the Water Quality Improvement Fund. Permittees that cannot meet their Total Nitrogen or Total
534 Phosphorus effluent limit may acquire nitrogen or phosphorus credits through payments made into the Virginia Water Quality
535 Improvement Fund established in § 10.1-2128 only if, no later than June 1 immediately following the calendar year in which
536 the credits are applied, the permittee certifies on a form supplied by the Department that he has diligently sought, but has
537 been unable to acquire, sufficient credits to satisfy his compliance obligations through the acquisition of point source nitrogen
538 or phosphorus credits with other permitted facilities in the same tributary, and that he has acquired sufficient credits to satisfy
539 his compliance obligations through one or more payments made in accordance with the terms of this general permit. Such
540 certification may include, but not be limited to, providing a record of solicitation or demonstration that point source allocations
541 are not available for sale in the tributary in which the permittee is located. Payments to the Water Quality Improvement Fund
542 shall be in the amount of \$11.06 for each pound of nitrogen and \$5.04 for each pound of phosphorus.

543
544 4. This general permit neither requires, nor prohibits, a municipality or regional sewerage authority's development and
545 implementation of trading programs among industrial users, which are consistent with the pretreatment regulatory requirements
546 at 40 CFR Part 403 and the municipality's or authority's individual VPDES permit.

547 **PART II**

548 **SPECIAL CONDITIONS APPLICABLE TO NEW AND EXPANDED FACILITIES**

549
550 **A. Offsetting mass loads discharged by new and expanded facilities.**

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

551

552 1. An owner or operator of a new or expanded facility shall comply with the applicable requirements of this section as a
553 condition of the facility's coverage under this general permit.

554

555 a. An owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued
556 before July 1, 2005, that expands his facility to discharge 40,000 gallons or more per day, or an equivalent load, shall
557 demonstrate to the Department that he has acquired waste load allocations sufficient to offset any increase in his delivered
558 total nitrogen and delivered total phosphorus loads resulting from any expansion beyond his permitted capacity as of July 1,
559 2005.

560

561 b. An owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued on or
562 after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the Department
563 that he has acquired waste load allocations sufficient to offset his delivered total nitrogen and delivered total phosphorus
564 loads.

565

566 2. Offset calculations shall address the proposed discharge that exceeds:

567

568 a. The applicable waste load allocation assigned to the facility in this general permit, for expanding significant dischargers
569 with a wasteload allocation listed in Subsection C of Sections 50, 60, 70, 110 and 120 of the Water Quality Management
570 Planning Regulation (9 VAC 25-720) as of January 11, 2006;

571

572 b. The permitted design capacity, for all other expanding dischargers, and

573

574 c. Zero, for facilities with a new discharge.

575

576 **B. Acquisition of Waste Load Allocations.**

577

578 Waste load allocations required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus
579 loads shall be acquired in accordance with this section.

580

581 1. Such allocations may be acquired from one or a combination of the following:

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

582

583 a. Acquisition of all or a portion of the waste load allocations from one or more permitted facilities, based on delivered
584 pounds by the respective trading parties as listed by the Department.

585

586 b. Acquisition of nonpoint source load allocations, using a trading ratio of two pounds reduced for every pound to be
587 discharged, through the use of best management practices that are:

588

589 (i) Acquired through a public, or private entity acting on behalf of the land owner;

590

591 (ii) Calculated using the best management practices efficiency rates and attenuation rates, provided by the Department of
592 Environmental Quality, based upon rates determined by the Department of Conservation and Recreation, and consistent
593 where appropriate with rates utilized by the Chesapeake Bay Program;

594

595 (iii) Based on the appropriate delivery factors, determined by the Department of Environmental Quality, and consistent
596 with delivery factors utilized by the Chesapeake Bay Program;

597

598 (iv) Demonstrated to have achieved reductions beyond those already required by or funded under federal or state law, or
599 by the Virginia tributaries strategies plans, utilizing guidelines provided by the Department of Environmental Quality, and
600 based upon a determination made by the Department of Conservation and Recreation, and

601

602 (v) Included as conditions for compliance with the facility's individual Virginia Pollutant Discharge Elimination System
603 permit; or

604

605 c. Acquisition of allocations through payments made into the Virginia Water Quality Improvement Fund established in §
606 10.1-2128; or

607

608 d. Acquisition of allocations through such other means as may be approved by the Department on a case-by-case basis.

609

610 2. Acquisition of allocations is subject to the following conditions:

611

612 a. the allocations shall be generated and applied to an offset obligation in the same calendar year;

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

613

614 b. the allocations shall be generated in the same tributary;

615

616 c. such acquisition does not result in a localized water quality exceedance as determined by the Department;

617

618 d. the allocations are authenticated (i.e., verified to have been generated) by the permittee as required by the facility's
619 individual Virginia Pollutant Discharge Elimination permit, utilizing procedures approved by the Board, no later than
620 February 1 immediately following the calendar year in which the allocations are applied;

621

622 e. if obtained from a permitted point source, the allocations shall be generated by a facility that has been constructed, and
623 has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's waste
624 load allocations, and

625

626 f. no later than June 1 immediately following the calendar year in which the allocations are applied, the permittee shall
627 certify on an exchange notification form supplied by the Department that he has acquired sufficient allocations to satisfy his
628 compliance obligations. The permittee shall comply with the terms and conditions contained in the exchange notification
629 form submitted to the Department.

630

631 3. Priority of Options. The Board shall give priority to allocations acquired in accordance with subdivisions B.1.a and B.1.b. of
632 this section. The Board shall approve allocations acquired in accordance with subdivisions B.1.c and B.1.d of this section only
633 after the owner or operator has demonstrated that he has made a good faith effort to acquire sufficient allocations in
634 accordance with subdivisions B.1.a and B.1.b, and that such allocations are not reasonably available taking into account
635 timing, cost and other relevant factors. Such demonstration may include, but not be limited to, providing a record of
636 solicitation, demonstration that point source allocations or nonpoint source allocations are not available for sale in the tributary
637 in which the permittee is located.

638

639 4. Allocation acquisitions from the Water Quality Improvement Fund. The cost for each pound of nitrogen and each pound of
640 phosphorus shall be determined at the time payment is made to the WQIF, based on the higher of (i) the estimated cost of
641 achieving a reduction of one pound of nitrogen or phosphorus at the facility that is securing the allocation, or comparable
642 facility, for each pound of allocation acquired; or (ii) the average cost, as determined by the Department of Conservation and

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

643 Recreation on an annual basis, of reducing two pounds of nitrogen or phosphorus from nonpoint sources in the same tributary
644 for each pound of allocation acquired.

645

646

PART III

647

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

648

649 **A. Duty to Comply.**

650

651 The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Law and
652 the CWA, except that noncompliance with certain provisions of the permit may constitute a violation of the Law but not the CWA.
653 Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or
654 denial of a permit renewal application.

655

656 **B. Duty to Register for Reissued General Permit.**

657

658 If the permittee wishes to continue an activity regulated by the general permit after its expiration date, the permittee must
659 register for coverage under the new general permit, when it is reissued by the Department.

660

661 **C. Need to Halt or Reduce Activity not a Defense.**

662

663 It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the
664 permitted activity in order to maintain compliance with the conditions of the permit.

665

666 **D. Duty to Mitigate.**

667

668 The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of the permit which has a
669 reasonable likelihood of adversely affecting human health or the environment.

670

671 **E. Proper Operation and Maintenance.**

672

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

673 The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related
674 appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper
675 operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This
676 provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when
677 the operation is necessary to achieve compliance with the conditions of the permit.

678

679 **F. Permit Actions.**

680

681 Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit
682 modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does
683 not stay any permit condition.

684

685 **G. Property Rights.**

686

687 Permits do not convey any property rights of any sort, or any exclusive privilege.

688

689 **H. Duty to Provide Information.**

690

691 The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to
692 determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with
693 the permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent
694 information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such
695 other information as may be necessary to accomplish the purposes of the Law. The permittee shall also furnish to the
696 Department upon request, copies of records required to be kept by the permit, pertaining to activities related to the permitted
697 facility.

698

699 **I. Inspection and Entry.**

700

701 The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a
702 representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

703

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

704 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be
705 kept under the conditions of the permit;

706

707 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

708

709 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations
710 regulated or required under the permit; and

711

712 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the
713 CWA and the Law, any substances or parameters at any location.

714

715 **J. Monitoring and Records.**

716

717 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

718

719 2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all
720 original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and
721 records of all data used to complete the application for the permit, for a period of at least 3 years from the date of the sample,
722 measurement, report or application. This period of retention shall be extended automatically during the course of any
723 unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as
724 requested by the Board.

725

726 3. Records of monitoring information shall include:

727

728 a. The date, exact place, and time of sampling or measurements;

729

730 b. The individual(s) who performed the sampling or measurements;

731

732 c. The date(s) analyses were performed;

733

734 d. The individual(s) who performed the analyses;

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

735

736 e. The analytical techniques or methods used; and

737

738 f. The results of such analyses.

739

740 4. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 (2000) or alternative
741 EPA approved methods, unless other test procedures have been specified in the permit.

742

743 **K. Signatory Requirements.**

744

745 All applications, reports, or information submitted to the Department shall be signed and certified as required by 9 VAC 25-31-
746 110.

747

748 **L. Reporting Requirements.**

749

750 1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to
751 the permitted facility. Notice is required only when:

752

753 a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new
754 source in 9 VAC 25-31-180 A; or

755

756 b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This
757 notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements
758 under 9 VAC 25-31-200 A 1.

759

760 2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which
761 may result in noncompliance with permit requirements.

762

763 3. Permits are not transferable to any person except after notice to the Department. The Board may require modification or
764 revocation and reissuance of permits to change the name of the permittee and incorporate such other requirements as may
765 be necessary under the Law or the CWA.

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

766

767 4. Monitoring results shall be reported at the intervals specified in the permit.

768

769 a. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the
770 Department for reporting results of monitoring of sludge use or disposal practices.

771

772 b. If the permittee monitors any pollutant specifically addressed by the permit more frequently than required by the permit
773 using test procedures approved under 40 CFR Part 136 (2000), or as specified in the permit, the results of this monitoring
774 shall be included in the calculation and reporting of the data submitted in the DMR specified by the Department.

775

776 c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise
777 specified in the permit.

778

779 5. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any
780 compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

781

782 6. If any unusual or extraordinary discharge including a bypass or upset should occur from a facility and such discharge enters
783 or could be expected to enter state waters, the owner shall promptly notify, in no case later than 24 hours, the Department by
784 telephone after the discovery of such discharge. This notification shall provide all available details of the incident, including
785 any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and
786 shall submit it to the Department within five days of discovery of the discharge in accordance with subdivision 7 a of this
787 subsection. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

788

789 a. Unusual spillage of materials resulting directly or indirectly from processing operations;

790

791 b. Breakdown of processing or accessory equipment;

792

793 c. Failure or taking out of service of the treatment work or auxiliary facilities (such as sewer lines or wastewater pump
794 stations); and

795

796 d. Flooding or other acts of nature.

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

797

798 7. Twenty-four hour reporting.

799

800 a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be
801 provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission
802 shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission
803 shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and
804 times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or
805 planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

806

807 b. The following shall be included as information which must be reported within 24 hours under this subdivision.

808

809 (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.

810

811 (2) Any upset which exceeds any effluent limitation in the permit.

812

813 (3) Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24
814 hours.

815

816 c. The Board may waive the written report on a case-by-case basis for reports under this subdivision if the oral report has
817 been received within 24 hours.

818

819 8. The permittee shall report all instances of noncompliance not reported under subdivisions 4, 5, 6, and 7 of this subsection,
820 in writing at the time the next monitoring reports are submitted. The reports shall contain the information listed in subdivision
821 7 of this subsection.

822

823 9. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect
824 information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

825

826 **M. Bypass.**

827

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

828 1. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is
829 for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subdivisions 2
830 and 3 of this subsection.

831

832 2. Notice

833

834 a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at
835 least ten days before the date of the bypass.

836

837 b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in subdivision L 7 of this
838 section (24-hour notice).

839

840 3. Prohibition of bypass.

841

842 a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

843

844 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

845

846 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of
847 untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if
848 adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a
849 bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

850

851 (3) The permittee submitted notices as required under subdivision 2 of this subsection.

852

853 b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will
854 meet the three conditions listed above in subdivision M 3 a of this subsection.

855

856 **N. Upset.**

857

9 VAC 25-820-10 et seq. - GENERAL VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

858 1. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit
859 effluent limitations if the requirements of subdivision 2 of this subsection are met. No determination made during
860 administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final
861 administrative action subject to judicial review.

862
863 2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed,
864 contemporaneous operating logs, or other relevant evidence that:

865
866 a. An upset occurred and that the permittee can identify the cause(s) of the upset;

867
868 b. The permitted facility was at the time being properly operated;

869
870 c. The permittee submitted notice of the upset as required in subdivision L 7 b (2) of this section (24 hour notice); and

871
872 d. The permittee complied with any remedial measures required under subsection D of this section.

873
874 3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

875
876 Form used to implement this regulation:

- 877
 - Registration statement and instructions for completion